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BEFORE THE
BOARD OF PODIATRIC MEDICINE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

IN THE MATTER OF THE ACCUSATION
AGAINST:

ALFRED LAWRENCE GLOVER, D.P.M.
5436 SENFORD AVENUE
LOS ANGELES, CALIFORNIA 90056

CERTIFICATE TO PRACTICE
PODIATRIC MEDICINE NUMBER E4238

RESPONDENT.

CASE No. 1B-2009-201207

OAH No.

A C C U S A T I O N

Complainant alleges:

PARTIES

1. James Rathlesberger (complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Board of Podiatric Medicine, Department of Consumer Affairs (Board).

2. On or about November 17, 1999, the Board issued Certificate To Practice Podiatric Medicine Number E4238 to Alfred Lawrence Glover, D.P.M. (respondent). The Certificate To Practice Podiatric Medicine was in full force and effect at all times relevant to the charges brought herein and will expire on August 31, 2013, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2222 of the Code provides that the California Board of Podiatric Medicine shall enforce and administer Article 12 (sections 2220 et seq., found in chapter 5 of division 2 of the Code) as to doctors of podiatric medicine and that any acts of unprofessional conduct or other violations proscribed by the Medical Practice Act are applicable to licensed doctors of podiatric medicine. Section 2222 further provides that wherever the Medical Quality Hearing Panel established under Government Code section 11371 is vested with the authority to enforce and carry out the Medical Practice Act as to licensed physicians and surgeons, the Medical Quality Hearing Panel also possesses the same authority as to licensed doctors of podiatric medicine.

5. Section 2497, subdivision (a) of the Code provides that "[t]he board may order the denial of an application for, or the suspension of, or the revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric medicine for any of the causes set forth in Article 12 (commencing with Section 2220) in accordance with Section 2222."

6. Section 2234 of the Code states:

"The Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"...

"(e) Dishonest or corrupt acts.

"..."

7. Section 2236 of the Code in part states:

"(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter [Chapter 5, the Medical Practice Act]. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

'...

1 “(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to
2 be a conviction within the meaning of this section and Section 2236.1. The record of conviction
3 shall be conclusive evidence of the fact that the conviction occurred.”

4 8. Section 2236.1 of the Code states in part:

5 “... ”

6 “(d) (1) Discipline may be ordered in accordance with Section 2227, or the Division of
7 Licensing may order the denial of the license when the time for appeal has elapsed, the judgment
8 of conviction has been affirmed on appeal, or an order granting probation is made suspending the
9 imposition of sentence, irrespective of a subsequent order under Section 1203.4 of the Penal Code
10 allowing the person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting
11 aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

12 “(2) The issue of penalty shall be heard by an administrative law judge from the Medical
13 Quality Panel sitting alone or with a panel of the division, in the discretion of the division. The
14 hearing shall not be had until the judgment of conviction has become final or, irrespective of a
15 subsequent order under Section 1203.4 of the Penal Code, an order granting probation has been
16 made suspending the imposition of sentence; except that a licensee may, at his or her option, elect
17 to have the issue of penalty decided before those time periods have elapsed. Where the licensee
18 so elects, the issue of penalty shall be heard in the manner described in this section at the hearing
19 to determine whether the conviction was substantially related to the qualifications, functions, or
20 duties of a physician and surgeon. If the conviction of a licensee who has made this election is
21 overturned on appeal, any discipline ordered pursuant to this section shall automatically cease.
22 Nothing in this subdivision shall prohibit the division from pursuing disciplinary action based on
23 any cause other than the overturned conviction.

24 “(e) The record of the proceedings resulting in the conviction, including a transcript of the
25 testimony therein, may be received in evidence.

26 “(f) The other provisions of this article setting forth a procedure for the suspension or
27 revocation of a physician and surgeon's certificate shall not apply to proceedings conducted
28 pursuant to this section.”

1 9. Sections 2497.5 and 125.3 of the Code provide, in pertinent part, that the Board may
2 request the administrative law judge to direct a licensee found to have committed a violation or
3 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
4 and enforcement of the case.

5 10. Section 490 of the Code states:

6 "(a) In addition to any other action that a board is permitted to take against a licensee, a
7 board may suspend or revoke a license on the ground that the licensee has been convicted of a
8 crime, if the crime is substantially related to the qualifications, functions, or duties of the business
9 or profession for which the license was issued.

10 "(b) Notwithstanding any other provision of law, a board may exercise any authority to
11 discipline a licensee for conviction of a crime that is independent of the authority granted under
12 subdivision (a) only if the crime is substantially related to the qualifications, functions, or duties
13 of the business or profession for which the licensee's license was issued.

14 "(c) A conviction within the meaning of this section means a plea or verdict of guilty or a
15 conviction following a plea of nolo contendere. Any action that a board is permitted to take
16 following the establishment of a conviction may be taken when the time for appeal has elapsed, or
17 the judgment of conviction has been affirmed on appeal, or when an order granting probation is
18 made suspending the imposition of sentence, irrespective of a subsequent order under the
19 provisions of Section 1203.4 of the Penal Code.

20 ". . ."

21 11. Section 725 of the Code states:

22 "(a) Repeated acts of clearly excessive prescribing, furnishing, dispensing, or administering
23 of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated
24 acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of
25 the community of licensees is unprofessional conduct for a physician and surgeon, dentist,
26 podiatrist, psychologist, physical therapist, chiropractor, optometrist, speech-language
27 pathologist, or audiologist.

28 ". . ."

12. Section 810 of the Code states:

"(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

“(b) It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 549 or 550 of the Penal Code.

“ . . . ”

FIRST CAUSE FOR DISCIPLINE

(CONVICTION OF A SUBSTANTIALLY-RELATED CRIME)

13. Respondent is subject to disciplinary action under sections 490, subdivision (a) and 2236, subdivision (a) in that he was convicted of a crime substantially related to the duties, qualifications or functions of a podiatrist. The circumstances are as follows:

14. On or about May 12, 2008 in the action titled *United States of America v. Alfred Lawrence Glover*, case number 08-CR-00436 in the United States District Court for the Central District of California (“the criminal case”), by plea of guilty Respondent was convicted within the meaning of Sections 490, subdivision (c) and 2236, subdivision (d) of the Code of seven counts of the crime of health care fraud as defined in and made a crime by Title 18 United States Code § 1347.

Staphylococcus aureus *Staphylococcus epidermidis* *Staphylococcus saprophyticus*

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SECOND CAUSE FOR DISCIPLINE

(INSURANCE FRAUD)

15. Respondent is subject to further disciplinary action under section 810 in that he prepared, made, or subscribed writings, with the intent to present or use the same, or allowed them to be presented or used in support of false or fraudulent claims. The circumstances are as follows:

16. Complainant is informed by the Information filed on April 14, 2008 in the criminal case, and believes, that on or about the dates set forth below Respondent and others known and unknown to the United States Attorney, for the purpose of executing a scheme to defraud caused to be submitted to Medicare the following false and fraudulent claims for payment for durable medical equipment (DME):

COUNT	Name	Date Claim Submitted	Claim Number	DME Type	Amount Paid
ONE	N.V.	03/10/05	105069805184000	Wheelchair and Accessories	\$5,124.80
TWO	K.D.	05/24/05	105144831983000	Wheelchair and Accessories	\$5,124.80
THREE	K.L.	05/25/05	105145800138000	Wheelchair and Accessories	\$5,124.80
FOUR	A.C.	06/15/05	105166823570000	Wheelchair and Accessories	-\$0-
FIVE	K.D.	02/09/06	106040805812000	Air Pressure Mattress	\$539.98
SIX	N.V.	04/26/06	106116800256000	Air Pressure Mattress	\$422.10
SEVEN	K.L.	07/26/06	106207800503000	Air Pressure Mattress	\$422.10

17. Complainant is further informed, and believes, that the scheme to defraud included Respondent signing written "Certificates of Medical Necessity" showing that the above-listed Medicare beneficiaries had health conditions and physical limitations qualifying them for the

1 DME he prescribed, even though, as Respondent well knew, the beneficiaries did not have those
2 conditions and limitations.

3 **THIRD CAUSE FOR DISCIPLINE**

4 **(DISHONEST AND CORRUPT ACTS)**

5 18. Respondent is subject to disciplinary action under Section 2234, subdivision (e) in
6 that he committed dishonest or corrupt acts. The circumstances are as follows:

7 19. Complainant repeats the allegations of the Second Cause for Discipline as if set forth
8 in full.

9 **FOURTH CAUSE FOR DISCIPLINE**

10 **(REPEATED, CLEARLY EXCESSIVE PRESCRIBING)**

11 20. Respondent is subject to disciplinary action under Section 725 in that he repeatedly
12 prescribed items of DME that were clearly excessive in the circumstances. The circumstances
13 are as follows:

14 21. Complainant repeats the allegations of the Second Cause for Discipline as if set forth
15 in full.

16 **FIFTH CAUSE FOR DISCIPLINE**

17 **(GENERAL UNPROFESSIONAL CONDUCT)**

18 22. Respondent is subject to disciplinary action under Section 2234, first paragraph in
19 that his conduct was unprofessional. The circumstances are as follows:

20 23. Complainant repeats the allegations of the Second Cause for Discipline as if set forth
21 in full.

22
23 **PRAYER**

24 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Board of Podiatric Medicine issue a decision:

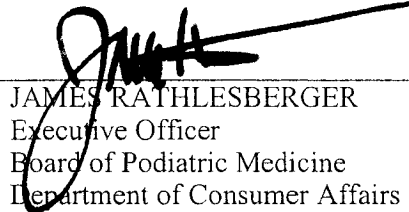
26 1. Revoking or suspending Certificate to Practice Podiatric Medicine Number E4238,
27 issued to Respondent.

1 2. Revoking, suspending, or denying approval of his authority to supervise physician
2 assistants, pursuant to Section 3527 of the Code;

3 3. Ordering him to pay the Board of Podiatric Medicine the reasonable costs of the
4 investigation and enforcement of this case, and, if placed on probation, the costs of probation
5 monitoring, and

6 4. Taking such other and further action as deemed necessary and proper.

7
8 DATED: Apr. 26, 2013


JAMES RATHLESBERGER
Executive Officer
Board of Podiatric Medicine
Department of Consumer Affairs
State of California

Complainant

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